

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, DISTRICT
COUNTY 47 HEALTH AND WELFARE FUND, *et*
al.

Plaintiffs,

v.

PURDUE PHARMA L.P. and THE PURDUE
FREDERICK COMPANY INC.

Defendants.

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Civil Action No. 1:07-cv-08761-JGK

**THE PURDUE DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY
IN SUPPORT OF THEIR MOTION FOR JUDGMENT ON THE PLEADINGS**

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The Purdue Defendants (“Purdue”) respectfully submit this Notice of Supplemental Authority to bring to the Court’s attention the Second Circuit’s opinion in *McLaughlin, et al. v. American Tobacco Co., et al.*, No. 06-4666-cv, --- F.3d ---, 2008 WL 878627 (2nd Cir. April 3, 2008), and to briefly explain the relevance of the opinion to Purdue’s pending Motion for Judgment on the Pleadings.

In opposition to Purdue’s Motion, Plaintiffs responded to the argument that they lacked standing to sue Purdue largely by incorporating arguments made by the plaintiff in the related case of *New Mexico United Food and Commercial Workers Union’s And Employers’ Health and Welfare Trust Fund v. Purdue Pharma L.P., et al.*, No. 07-cv-6916-JGK (S.D. N.Y.). (See Plaintiffs’ Memo in Opp. to Purdue’s Motion for Judgment on the Pleadings at 25 [Doc. 18].) Thus, to avoid repetition, Purdue incorporates the Notice of Supplemental Authority filed today in the *New Mexico* case as if set forth herein. (See The Purdue Defendants’ Notice of Supplemental Authority in Support of Their Motion for Judgment on the Pleadings [Doc. 86] (explaining the relevance of the *McLaughlin* opinion).) In addition, Purdue notes that the *McLaughlin* opinion is relevant to arguments set forth on (1) pages 1-2, 5-11 of The Purdue Defendants’ Memorandum of Law in Support of their Motion for Judgment on the Pleadings [Doc. 13]; (2) page 25 of Plaintiffs’ Memorandum in Opposition to the Purdue Defendants’ Motion for Judgment on the Pleadings [Doc. 18]; and (3) pages 1-2 and 3-4 of The Purdue Defendants’ Reply Brief in Support of Their Motion for Judgment on the Pleadings [Doc. 19].

Respectfully submitted this 7th day of April, 2008.

s/Donald I Strauber

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